

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

LARRY GENE HEGGEM,

Plaintiff,

v.

DR. SMITH, JO ELLA PHILLIPS, and  
DONALD HOLBROOK,

Defendants.

NO: 4:15-CV-5092-TOR

SECOND ORDER DENYING  
PLAINTIFF'S MISCELLANEOUS  
MOTIONS FOR RELIEF

BEFORE THE COURT are the following motions: (1) Plaintiff's Request for Oral Argument for Preliminary Injunction and Temporary Restraining Order (ECF No. 52); (2) Plaintiff's Reply to Court's Order Denying His Motions/ Requesting Reconsideration (ECF No. 59); (3) Plaintiff's Request for One Million Dollars in Compensatory and Punitive Damages (ECF No. 76); and (4) Plaintiff's Request for a 30-Day Extension to Reply to Defendants' Motion for Summary

1 Judgment (78).<sup>1</sup> These matters were submitted for consideration without oral  
2 argument. This Court—having reviewed the briefing, the record, and files  
3 therein—is fully informed.

#### 4 **BACKGROUND**

5 Plaintiff Larry Heggem, currently incarcerated at the Washington State  
6 Penitentiary in Walla Walla, Washington, commenced this suit on September 10,  
7 2015. ECF No. 1. After ordering Plaintiff to show cause why he should be  
8 permitted to proceed *in forma pauperis* in light of his prior litigation history, which  
9 includes four “strikes” under 28 U.S.C. § 1915(g), this Court allowed Plaintiff to  
10 file an Amended Complaint, which was served upon Defendants in December  
11 2015. ECF Nos. 16; 18. In his Amended Complaint, Plaintiff asserts, *inter alia*,  
12 that he is being denied medical treatment in violation of his Eighth Amendment  
13 rights. ECF No. 17.

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15 <sup>1</sup> There are three other motions currently pending before this Court: Defendants’  
16 Motion for Summary Judgment (ECF No. 66); Plaintiff’s Request for Oral  
17 Argument at Defendants’ Motion for Summary Judgment Hearing on 5-9-2016  
18 (ECF No. 73); and Plaintiff’s Request that the Court Compel Discovery and Stay  
19 Defendant’s Motion for Summary Judgment (ECF No. 80). The Court will address  
20 these motions in a separate order.

1 In the instant motions, Plaintiff seeks the following: (1) oral argument on his  
2 request for a preliminary injunction and temporary restraining order; (2)  
3 reconsideration of this Court's denial of his previous motions; (3) one million  
4 dollars in damages; and (4) an extension of time to respond to Defendants'  
5 summary judgment motion. This Court will address each request in turn.

## 6 DISCUSSION

### 7 A. Request for Oral Argument

8 First, Plaintiff requests oral argument on his motion for a preliminary  
9 injunction and temporary restraining order. ECF No. 52. Plaintiff submitted this  
10 motion on March 4, 2016, one day after this Court issued its order denying several  
11 of Plaintiff's motions, including his multiple requests for an injunction. *See* ECF  
12 No. 51. Accordingly, Plaintiff's motion (ECF No. 52) is denied as moot.

### 13 B. Request for Reconsideration

14 Second, Plaintiff moves this Court to reconsider its denial of Plaintiff's  
15 previous motions, including its denial of Plaintiff's motion for a preliminary  
16 injunction and temporary restraining order. ECF No. 59. In support, Plaintiff  
17 merely states that the Court erred in denying his motions and that he continues to  
18 suffer violations of his Eighth and Fourteenth Amendment rights. *Id.*

19 An order that resolves fewer than all the claims among the parties—that is, a  
20 non-final order—“may be revised at any time before the entry of judgment

1 adjudicating all the claims and all the parties' rights and liabilities." Fed. R. Civ.  
2 P. 54(b). Where reconsideration of a non-final order is sought, the court has  
3 "inherent jurisdiction to modify it, alter or revoke it." *United States v. Martin*, 226  
4 F.3d 1042, 1049 (9th Cir. 2000); *see Am. Canoe Ass'n v. Murphy Farms, Inc.*, 326  
5 F.3d 505, 514-15 (9th Cir. 2003) (noting that motions for reconsideration of non-  
6 final orders are not subject to the strict standards applicable to motions for  
7 reconsideration of final judgment).

8 Plaintiff's request for reconsideration is denied. While this Court  
9 appreciates Plaintiff's continued concerns about his medical conditions, he has  
10 failed to provide any reason why this Court should amend its prior ruling.  
11 Primarily, Plaintiff appears to disagree with this Court's denial of Plaintiff's  
12 request for a preliminary injunction and temporary restraining order. However, as  
13 this Court previously found, Plaintiff continues to provide only his allegations to  
14 show that the medical care provided by Defendants constitutes deliberate  
15 indifference to his serious medical needs. Based on the evidence currently before  
16 this Court, Plaintiff has failed to establish the necessity of a preliminary injunction.  
17 Accordingly, Plaintiff's motion for reconsideration (ECF No. 59) is denied.

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1           **C. Request for Damages**

2           Third, Plaintiff requests one million dollars in compensatory and punitive  
3 damages for Defendants' alleged constitutional violations and the extreme pain and  
4 anguish Plaintiff has suffered. ECF No. 76.

5           This Court denies Plaintiff's motion for damages. Plaintiff has not  
6 established liability at this stage of the proceedings; accordingly, no damages are  
7 due at this time. Plaintiff's motion (ECF No. 76) is denied.

8           **D. Request for an Extension**

9           Finally, Plaintiff requests a 30-day extension of time to respond to  
10 Defendants' Motion for Summary Judgment. ECF No. 78. In support, Plaintiff  
11 asserts that he needs more time to review his medical records and other discovery  
12 and further explains that his medication makes him weaker and causes him even  
13 more pain. *Id.* Defendants do not oppose Plaintiff's extension request. ECF No.  
14 79.

15           While this Court finds Plaintiff demonstrated good cause for an extension,  
16 Plaintiff's request is moot as he timely submitted his response briefing for filing.  
17 *See* ECF No. 83 (response brief dated April 18, 2016). Accordingly, Plaintiff's  
18 request is denied as moot.

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**ACCORDINGLY, IT IS ORDERED:**

1. Plaintiff's Request for Oral Argument for Preliminary Injunction and Temporary Restraining Order (ECF No. 52) is **DENIED**.

2. Plaintiff's Reply to Court's Order Denying His Motions/ Requesting Reconsideration (ECF No. 59) is **DENIED**.

3. Plaintiff's Request for One Million Dollars in Compensatory and Punitive Damages (ECF No. 76) is **DENIED**.

4. Plaintiff's Request for a 30-Day Extension to Reply to Defendants' Motion for Summary Judgment (78) is **DENIED**.

5. The District Court Executive is directed to enter this Order and provide copies to the parties.

**DATED** May 3, 2016.



*Thomas O. Rice*  
THOMAS O. RICE  
Chief United States District Judge